HARVARD LAW REVIEW.

Published monthly, during the Academic Year, by Harvard Law Students.

SUBSCRIPTION PRICE, $2.50 PER ANNUM. . . . . 35 CENTS PER NUMBER.

THE LAW SCHOOL. — As readers of the REVIEW are aware, during the past eighteen months the entrance requirements of the Law School have been somewhat stiffened, and a series of new regulations have also been adopted, to prevent the return for another year of men who have made a comparative failure. These measures were in line with the general policy of the School, but they were hastened by the need of checking immediately its increase in size, which threatened to outgrow the accommodations of Austin Hall. It is not probable that the numbers for 1893–94 will in any event be greater than those of the present year, — or, indeed, as great. But there is no reason to believe that the School has reached its permanent maximum. To forestall the future, therefore, the Faculty have just announced a further and more radical change in the requirements, not only for entrance, but for the degree.

The effect of the preceding changes was virtually to legislate special students out of the catalogue; for as much will henceforth be demanded from them, in order either to enter or stay, as has been demanded under the present system from regulars. The new rules, by restricting the class eligible to the degree, bring the special students back again in name, though it is needless to say that the name will not mean what it once did. This restriction of the degree does not take effect, however, until 1897; that is, it does not apply to men entering next autumn.

After 1896, the following men only can be candidates for the degree:

(1) Holders of an academic degree from any one of a specified list of about eighty colleges, — this list being made up of colleges which have hitherto fed the School, together with a few obvious additions, and being liable to change from time to time. The object of the rule is simply to ensure a certain minimum of general education among graduates of the Law School; and the list is provisional, in the sense that any man who could show that his degree represented in general not less than that minimum, would probably be admitted.

(2) Men who are qualified to enter the Senior Class in Harvard College. This is necessary, in order to provide for the increasing number

who wish to combine the last year in college with the first in the Law School. On January 1, 1893, there were twelve such in the class of 1895.

(3) Special students who are three full years in residence, and who, before applying for the degree, make up the deficiency in their entrance requirements.

(4) Special students who are three full years in residence, and who receive an average mark for their whole course within five per cent of that required for the Honor Degree. This is at present seventy-five per cent, and, judging from the recent action of the Faculty, will probably not be changed.

The following will be eligible for admission as special students :—

(1) Men who hold an academic degree from any college not on the list mentioned above.

(2) Graduates of any law school which requires a two-years' course, and gives its degree upon examination.

(3) Men who pass the present entrance examination.

It is pretty clear that these changes will succeed in their immediate purpose of bringing down the attendance at the School. Judging from the results of the similar experiment of requiring a three-years' course, it does not follow, however, that this effect will be permanent, — nor need it be. It is to be hoped that the resources of Austin Hall will some time be enlarged.

When the present demands upon Austin Hall are repeated, there is no reason why the building should not be better able to meet them. At all events, the immediate emergency has only hastened, not altered, the evolution of the School. Its steady policy has been to keep its standards as high as was possible at the given moment under the general conditions of legal education. On the continent of Europe, it should be remembered, and even in some parts of Spanish America, a liberal education is an absolute prerequisite to the beginning of study for the bar.

THE Faculty have also passed two votes of less importance. The privilege of re-examination, in order to obtain better marks, has been abolished. It is understood, however, that an exception may be made in cases of illness; and the Faculty will probably not decline to consider special cases, coming up by petition, upon their merits. In the second place, absolutely no information will be given in regard to marks beyond that which is contained in the report sent at the end of the year to each student.

No other changes of any importance are as yet announced for next year. The *personnel* of the Faculty and the course of instruction will apparently remain as at present; and there will be no alterations in Austin Hall. The lectures on Patent Law, announced for this year by Mr. Fish, but unavoidably prevented, will be given next year.

VISITORS at the World's Fair will find the Law School well represented there, — thanks to Professor Thayer and Professor Ames, the Committee of the Faculty having the matter in charge. The Harvard exhibit, of which this is a part, is most admirably placed among the other colleges. The Law School sends the photographs of the building; graphical charts, showing the growth of the Library, the funds, the instruction, and the number of students; portraits of Nathan Dane, Judge Story, Professor

Greenleaf, Professor Parsons, Chief-Justice Parker, and Professor Washburne; and a complete set of the first and last editions of the different books published by instructors during their connection with the School. The Harvard exhibit is in the so-called "Hall of Liberal Arts," and will remain under the personal charge of Mr. Williams, the Publication Agent of the University.

THE LAKE FRONT CASES AGAIN. — The REVIEW is indebted to Merritt Starr, Esq., '81, of the Chicago bar, for a valuable criticism of the note in the March number concerning the Lake Front Cases (146 U. S. 387). Mr. Starr says in part: "Your note seems to reflect unfavorably upon the opinion of the court. Among other things it contains the following: —

"'The decision must be that any large grant of the kind is a license revocable by the Legislature whenever in the judgment of the court such interpretation would largely promote the pecuniary welfare of the people; for it is here only pecuniary welfare that is affected; the community saves what constitutional confiscation would cost.'

"The fundamental character of the decision leads me to hope that you will permit me, as an alumnus of the Law School, to indicate briefly some reasons for believing that this is an inaccurate interpretation of the decision.

"In the opinion Mr. Justice Field says: 'That the State holds the title to the lands under the navigable waters of Lake Michigan, within its limits, in the same manner that the State holds title to soils under tide water, by the common law, we have already shown; and that title necessarily carries with it control over the waters above them whenever the lands are subjected to use. But it is a title different in character from that which the State holds in lands intended for sale. It is different from the title which the United States hold in the public lands which are open to pre-emption and sale. It is a title held in trust for the people of the State, that they may enjoy the navigation of the waters, carry on commerce over them, and have liberty of fishing therein, freed from the obstruction or interference of private parties. . . . A grant of all the lands under the navigable waters of a State has never been adjudged to be within the legislative power; and any attempted grant of the kind would be held, if not absolutely void on its face, as subject to revocation.'

"This is hardly an admission of a power to grant such property.

"The difference shown by the court between property in lands *held for sale* by the State, and land which is *not held for sale* by the State, is most important.

"The lands acquired by the United States from other Governments were acquired by grant, and lie in grant, — they are made the subjects of barter and sale, and held for the purpose of sale. But the title and dominion of the Government over the harbors of the realm, and over the submerged lands of the harbors, was not acquired by grant, and does not lie in grant. The title of the people of a State in such harbors and lands is not derived. It is incidental to and inherent in the sovereign people of the State. It has such title and dominion independent of the ownership of adjacent lands. It is a portion of the royalties belonging to the Government, and held in trust for public purposes, of navigation and fishery. (*Hardin* v. *Jordan*, 140 U. S. 381; *Martin* v. *Waddell*, 16 Pet. 367–410; *McCready* v. *Virginia*, 94 U. S. 394, 395; *Union Depot Co.* v. *Brunswick*, 31 Minn. 303; *Smith* v. *Maryland*, 18 Howard, 75; *Providence*